

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN

BEFORE THE EXAMINING BOARD OF ARCHITECTS, LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS,  
DESIGNERS AND LAND SURVEYORS

LAND SURVEYORS SECTION

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IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST

**LESTER J. SCHMIT,**  
  
**RESPONDENT**

**FINAL DECISION AND ORDER**

**Case 97 LSR 014**

**LS0003162LSR**

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The parties to this action for the purposes of Wis. Stats. Sec. 227.53 are:

*Lester J. Schmit  
1010 Theiler Drive  
PO Box 216  
Tomahawk, WI 54487*

*Examining Board of Architects, Landscape Architects,  
Professional Engineers, Designers and Land Surveyors;  
Land Surveyors Section  
P.O. Box 8935  
Madison, WI 53708-8935*

*Department of Regulation and Licensing  
Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935*

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Land Surveyors Section (Section). The Section has reviewed the Stipulation and considers it acceptable.

Accordingly, the Section adopts the attached Stipulation and makes the following:

**FINDINGS OF FACT**

1. Lester J. Schmit, (Schmit), 1010 Theiler Drive, PO Box 216, Tomahawk, WI 54487 credentialed as a registered land surveyor in the State of Wisconsin. His license #1192 was issued to him originally on August 6, 1974. His date of birth is December 21, 1946.
2. Schmit's land surveyor license expired on February 1, 1996 and was not renewed until May 18, 1999.
3. During the period of time that Schmit was not licensed as a land surveyor in Wisconsin, Schmit prepared approximately 122 land surveys. All of these surveys were signed, sealed and dated by Schmit indicating that he was authorized to prepare these surveys as a licensed land surveyor in Wisconsin.

4. Schmit's unlicensed practice came to the attention of the Division of Enforcement of the Department of Regulation and Licensing when Art Wakkinen of Tomahawk, Wisconsin filed a complaint against Schmit with the DOE.
5. Wakkinen complained about a property survey performed by Schmit for a person named Norinne M. Meissner, a neighbor of Wakkinen's. On or about April 2, 1998, during the course of investigating this complaint, an Investigator for the DOE informed Schmit that records of the Department showed that he was not licensed as a land surveyor.
6. Schmit performed approximately 37 property surveys after the investigator notified him that he was not licensed.
7. Schmit was once before disciplined by this Section pursuant to a Consent Order dated March 22, 1977. That matter involved issues relating to preparation of a deficient survey and did not involve unlicensed practice on the part of Schmit.

### **CONCLUSIONS OF LAW**

1. The Land Surveyors Section of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors has jurisdiction in the matter pursuant to section 443.12 of the Wisconsin Statutes.
2. The Section is authorized to enter into the attached Stipulation pursuant to section 227.44(5) of the Wisconsin Statutes.
3. Section 443.02(4)(a) of the Wisconsin Statutes provides:

#### **"443.02 Practice requirements and registration: general**

(4)(a) No person may practice land surveying in this state or use or advertise any title or description tending to convey the impression that the person is a land surveyor unless the person has been issued a certificate of registration or granted a permit to practice under this chapter."

4. Respondent's practice of land surveying during a time that he was not licensed is a violation of section 443.02(4)(a) of the Wisconsin Statutes and constitutes misconduct in violation of Section A-E 8.03(3)(a) of the Wisconsin Administrative Code.

### **ORDER**

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, that the Respondent Lester J. Schmit, registration number #1192 is hereby **Suspended** for a period of one year, commencing on the date of this Order as set forth below.

IT IS FURTHER ORDERED, that Respondent Lester J. Schmit pay partial **Costs** of this matter in the amount of \$1,000.00 within 30 days of the date of this order by making payment of the same to the Department of Regulation and Licensing, P.O. Box 8935, Madison, WI 53708-8935.

IT IS FURTHER ORDERED, that in the event Respondent Lester J. Schmit fails to pay the \$1,000.00 costs within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent Lester J. Schmit, his land surveyor registration license shall be continue to be suspended without further hearing and without further Order of the Section, and said suspension shall continue until the full amount of said costs have been paid to the Department of Regulation and Licensing and his failure to pay the costs shall be considered a violation of this Order by the Section.

IT IS FURTHER ORDERED, that investigation file 97 LSR 014 is hereby closed.

### **LAND SURVEYORS SECTION**

By:

Harold H. Kolb

March 10, 2000

A Member of the Section

Date